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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 10/729,284  
Applicant(s) : Donald E. BEELER  
Filed : December 4, 2003  
Title : REAL-TIME BACKUP SYSTEM  
TC/A.U. : Unknown  
Examiner : Unknown  
Docket No. : 24901-0011 CON4

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**GRANT OF NEW POWER OF ATTORNEY BY ASSIGNEE  
AND CERTIFICATE UNDER 37 C.F.R. §3.73(b)**

Sir:

Pursuant to 37 C.F.R. §§1.36, 3.71 and 3.73(b), assignee, Double-Take Software, Inc., hereby grants power of attorney to Celine Jimenez Crowson, Registration No. 40,357 and the other registered practitioners included in the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and direct that all correspondence be addressed to that Customer Number:

**Customer Number: 24633**

**Please direct all inquiries to:**

**Celine Jimenez Crowson  
Registration No. 40,357  
Telephone: (202) 637-5703  
Facsimile: (202) 637-5910  
E-mail: [cjcrowson@hhlaw.com](mailto:cjcrowson@hhlaw.com)**

**CERTIFICATE UNDER 37 C.F.R. §3.73(b)**

Double-Take Software, Inc., a Delaware corporation, certifies that it is:

1. ☒ The assignee of the entire right, title, and interest; or
2. ☐ an assignee of an undivided part interest

in the patent application identified above by virtue of an Assignment(s) from the inventor(s) of the patent application identified above.

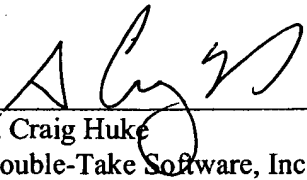
An Assignment was recorded in Parent Patent No. 5,819,020 at reel/frame 009243/0548 on June 8, 1998, wherein an Assignee name change was recorded at reel/frame 014409/0161 on March 9, 2004. Further, enclosed herewith is Assignee name change which is being filed concurrently for recordation.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the Assignee.

Dated: 10/31/06

By: \_\_\_\_\_

  
S. Craig Huke  
Double-Take Software, Inc.  
257 Turnpike Road, Suite 210  
Southborough, Massachusetts 01772

# GRANT OF POWER OF ATTORNEY ATTACHMENT

THE ATTACHED ASSIGNMENT COPY IS FOR  
INFORMATIONAL PURPOSES ONLY.

THIS ASSIGNMENT COPY IS NOT FOR RECORDATION

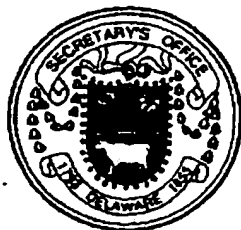
# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "NSI SOFTWARE, INC.", CHANGING ITS NAME FROM "NSI SOFTWARE, INC." TO "DOUBLE-TAKE SOFTWARE, INC.", FILED IN THIS OFFICE ON THE TWENTY-FIFTH DAY OF JULY, A.D. 2006, AT 10:23 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



3704581 8100

060697780

*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 4924444

DATE: 07-25-06

**CERTIFICATE OF AMENDMENT  
TO  
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
NSI SOFTWARE, INC.**

NSI Software, Inc., a corporation duly organized and existing under the laws of the State of Delaware, hereby certifies as follows:

1. The name of the corporation is NSI Software, Inc.
2. The name under which the corporation was originally incorporated is NSI Software, Inc., and the original Certificate of Incorporation of the corporation was filed with the Secretary of State of the State of Delaware on September 16, 2003.
3. This Amendment to Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Sections 242 and 228 of the General Corporation Law of the State of Delaware.
4. This Amendment to Amended and Restated Certificate of Incorporation amends Article First of the Amended and Restated Certificate of Incorporation of the corporation, as heretofore amended, supplemented and restated (the "Amended and Restated Certificate of Incorporation"), by deleting the existing Article First in its entirety and substituting therefor a new Article First to read in its entirety as follows:

**FIRST:** The name of the corporation (hereinafter the "Corporation") is:

Double-Take Software, Inc.

5. This Amendment to Amended and Restated Certificate of Incorporation amends Article Fourth of the Amended and Restated Certificate of Incorporation by adding the following to the end of the sentence comprising the existing Section 1.4(b) of Paragraph (C) of Article Fourth:

; provided, however, that, notwithstanding any other provision of this Paragraph C of this Article Fourth, if in connection with the closing of such public offering or immediately prior to the occurrence of such Liquidation of the Corporation, shares of Series B Preferred Stock are converted into shares of Common Stock and the Series B Accruing Dividends with respect to such shares of Series B Preferred Stock are consequently included in the calculation of the number of shares of Common Stock into which the shares of Series B Preferred Stock are convertible, then no payment of Series B Accruing Dividends shall be

made or required to be made at any time with respect to such shares of Series B Preferred Stock.

6. This Amendment to Amended and Restated Certificate of Incorporation amends Article Fourth of the Amended and Restated Certificate of Incorporation by adding the following to the end of the sentence comprising the existing Section 1.4(b) of Paragraph (D) of Article Fourth:

; provided, however, that, notwithstanding any other provision of this Paragraph D of this Article Fourth, if in connection with the closing of such public offering or immediately prior to the occurrence of such Liquidation of the Corporation, shares of Series C Preferred Stock are converted into shares of Common Stock and the Series C Accruing Dividends with respect to such shares of Series C Preferred Stock are consequently included in the calculation of the number of shares of Common Stock into which the shares of Series C Preferred Stock are convertible, then no payment of Series C Accruing Dividends shall be made or required to be made at any time with respect to such shares of Series C Preferred Stock.

[signature page follows]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to the Amended and Restated Certificate of Incorporation to be signed by Dean Goodermote, the President, Chief Executive Officer and Chairman of the Corporation, on this 25<sup>th</sup> day of July, 2006.

NSI Software, Inc.

By: \_\_\_\_\_

Name: Dean Goodermote

Title: President, Chief Executive Officer  
and Chairman